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8/6/03
Response
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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No.: 23641
Application No.: 09/406290
Confirmation No.: 1448
Filing Date: September 24, 1999
Attorney Docket No.: 37168-82045
First Named Inventor: Jeffrey K. Dellinger
Group Art Unit: 3627
Examiner Name: Christopher R. Buchanan
Title: METHOD AND APPARATUS
FOR PROVIDING
RETIREMENT INCOME
BENEFITS

Certificate Under 37 CFR 1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

on July 28, 2003

Stacey E. Tolar
Stacey E. Tolar

RESPONSE

Mail Stop AF
Commissioner of Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a response to the Final Official Action mailed February 28, 2003, in connection with the above-identified application. In the Office Action, the Examiner maintained the previous claim rejections under 35 U.S.C. § 103 based on various combinations of the patents to Golden, Corlett, et al., and Edelman. In addition, and in response to the arguments filed

entered
ERB
8/13/03

January 2, 2003, by Applicant, the Examiner notes Applicant's position that Golden relates to fixed annuities, rather than variable annuities. The Examiner takes the position that "[V]ariable annuities being the general form of annuities, with payments that vary on a host of circumstances, fixed annuities are merely a special case of variable annuities in which the variability of the payments is zero." Applicant and the undersigned respectfully disagree with this conclusion, as set forth below.

Accompanying this Response is an Affidavit Pursuant To 37 C.F.R. Section 1.132 by Denis G. Schwartz. This Affidavit clarifies and explains the distinctions which exist, from the standpoint of one of skill in the art of insurance and annuities, between fixed and variable annuities. The Affidavit makes clear that the various embodiments disclosed in the Golden patent relate to fixed annuities. In contrast, the embodiments claimed in the present application are specific to variable annuities. This distinction is significant in the present context in that, by providing a guaranteed minimum payment feature in a variable annuity plan (i.e., one in which future payments vary with the market value of the underlying assets), the insurance company or other plan provider is assuming the risk of making payments from its own assets when market values of the assets in the annuity account decline. This is not the case in the plans described in the Golden patent.

Neither Corlett, et al. nor Edelman show or suggest use of a guaranteed minimum payment feature with a variable annuity product. Thus, neither of these references remedy the primary deficiency of Golden. Accordingly, Applicant respectfully submits that the claims of the present application as previously filed and/or amended are patentable.

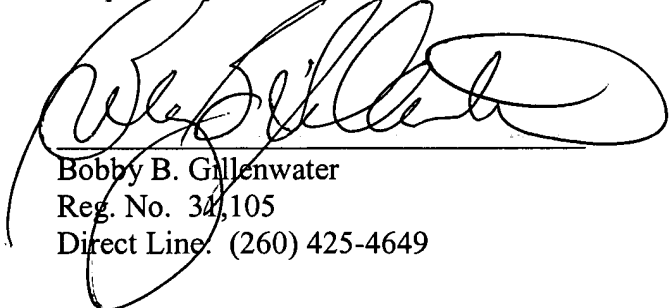
Applicant and the undersigned intend this Response and the accompanying affidavit as a complete response to the Final Office Action dated February 28, 2003. No claim amendments have been proposed in this Response, and no new issues have been raised that would require further consideration and/or searching. The issue of new matter has not been raised, and the number of claims in the application has not been increased. Accordingly, entry of these remarks and the accompanying Affidavit, and a favorable consideration of all pending claims are respectfully requested. Alternatively, entry of these remarks and the accompanying Affidavit for purposes of consideration on a possible appeal are requested.

If, upon consideration of the above, the Examiner should feel that there remain

outstanding issues in the present application that could be resolved, the Examiner is invited to contact the undersigned at the telephone number given below.

A Request for Extension of Time under 37 C.F.R. §1.136 accompanies this Response. To the extent additional time may be needed, Applicant respectfully petitions for such additional time by this Response. To the extent additional fees are required, please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 02-1010 (37168/82045) and please credit any excess fees to such deposit account.

Respectfully submitted,



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